

ORDINANCE NO. 040624-52

AN ORDINANCE ESTABLISHING INTERIM DEVELOPMENT REGULATIONS, INCLUDING A MORATORIUM, PROHIBITING THE ISSUANCE OF A BUILDING PERMIT FOR THE CONSTRUCTION OR REMODELING OF A TWO-FAMILY RESIDENTIAL USE OR SECONDARY APARTMENT SPECIAL USE OR THE REMODELING OF AN EXISTING STRUCTURE TO CREATE A TWO-FAMILY RESIDENTIAL USE OR A SECONDARY APARTMENT SPECIAL USE UNTIL SEPTEMBER 26, 2004; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. FINDINGS.

The Council finds:

- (A) City regulations allow a two-family residential use and secondary apartment special use to exist in the same zoning district with and in close proximity to a single-family residential use.
- (B) Citizens have expressed a concern that under current City regulations a two-family residential use and secondary apartment special use are often high occupancy uses that are not compatible with single-family residential development.
- (C) The Council desires to study the land use regulations that are applicable to a two-family residential use and secondary apartment special use.
- (D) To protect the general health, safety and welfare of its citizens and to preserve the nature and character of single-family residential areas in the City, it is necessary to prohibit the development of additional two-family residential uses and secondary apartment special uses in single-family residential areas and to maintain the status quo until completion of a study and staff recommendations regarding appropriate development regulations for a two-family residential use and a secondary apartment special use.

PART 2. DEFINITIONS.

In this ordinance:

- (1) DIRECTOR means the Director of the Watershed Protection and Development Review Department.
- (2) HIGH OCCUPANCY USE is a two-family residential use or a secondary apartment special use in which:
 - (a) the rear unit is greater than two stories or 30 feet in height; and
 - (b) the lot on which the use is located has more than:
 - (i) 45 percent total impervious cover; and
 - (ii) 40 percent building coverage.

PART 3. DEVELOPMENT LIMITATIONS.

- (A) Except as otherwise provided in this ordinance, a City official may not approve a building permit to:
 - (1) construct a new high occupancy use;
 - (2) remodel an existing structure to create a high occupancy use; or
 - (3) remodel an existing high occupancy use to increase the:
 - (a) height of the rear unit; or
 - (b) impervious cover or building coverage of the lot on which the high occupancy use is located.
- (B) This section applies to a rear unit of a secondary apartment special use or a two-family residential use.
 - (1) For a one story unit, the maximum square footage is 850 square feet.
 - (2) For a two story unit:
 - (a) the maximum building footprint of the ground floor is 425 square feet; and
 - (b) the maximum square footage of the second story is 425 square feet.
- (C) A person may file an application for a waiver and building permit to construct high occupancy use. The building permit application expires if a waiver is not granted by Council under Part 4 of this ordinance.
- (D) Subsections (A) and (B) do not apply to:

- (1) an application for a building permit to perform building, electrical, plumbing, mechanical, sidewalk, or driveway repairs; or
- (2) an application for a building permit that was filed before the effective date of this ordinance.

PART 4. WAIVER.

- (A) The Council may waive by resolution a development limitation in Subsection (A) of Part 4 of this ordinance if the Council determines that:
 - (1) the development limitation imposes undue hardship on the applicant; and
 - (2) the development proposed by the applicant will not adversely affect the public health, safety, and welfare.
- (B) The applicant for a waiver must prove all facts necessary to satisfy the criteria in Subsection (A).
- (C) An application for a waiver must be filed with the director on a form provided by the director and must include the following information:
 - (1) the name and address of the applicant;
 - (2) the address and legal description of the property;
 - (3) evidence to support the criteria in Subsection (A); and
 - (4) other information that the director may reasonably require to evaluate the waiver application.
- (D) The director shall make a recommendation to the Council on each application for a waiver. Before acting on a waiver, the Council shall hold a public hearing and provide notice of the public hearing under Section 25-1-132(B)(2) (*Notice of Public Hearing*) of the City Code.

PART 5. EXPIRATION.

This ordinance expires at 12:01 a.m. on September 27, 2004.

PART 6. EMERGENCY.

The Council finds that the continued development of high occupancy uses in proximity to single-family residential development would impede the Council's efforts to examine land use issues concerning high occupancy uses and that this constitutes an

emergency. Because of the emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.

PASSED AND APPROVED

June 24, 2004

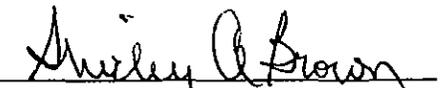
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Will Wynne
Mayor

APPROVED: 

David Allan Smith
City Attorney

ATTEST: 

Shirley A. Brown
City Clerk